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In the Supreme Court of the United States

OCTOBER TERM, 1957

GENEVA CAROLYN ANTHONY WRIGHT, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

J. LEE RANKIN,
Solicitor General,
WARREN OLNEY III,
Assistant Attorney General,
BEATRICE ROSENBERG,
ALBERT M. CHRISTOPHER,
Attorneys,
Department of Justice, Washington 25, D. C.

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OPINION BELOW

The opinion of the Court of Appeals (Pet. 28–29) is reported at 243 F. 2d 569.

JURISDICTION

The judgment of the Court of Appeals (Pet. 29) was entered on April 22, 1957. A petition for rehearing was denied on June 17, 1957. The petition for a writ of certiorari was filed on July 17, 1957. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1).

QUESTIONS PRESENTED

1. Whether there was sufficient corroborative evidence of the corpus delicti to warrant consideration,

by the jury, of the voluntary, extra-judicial statement of petitioner.

2. Whether monetary gain from conduct proscribed by the Mann Act is essential to conviction under that Act.

3. Whether, under an indictment charging petitioner with knowingly transporting women in interstate commerce for the purpose of prostitution, it must be shown that petitioner *induced* the women to be transported to practice prostitution.

STATEMENT

On February 16, 1956, in the United States District Court for the Middle District of Georgia, petitioner was jointly indicted with her husband in a three-count indictment (R. 2–6) charging, in the first two counts, substantive violations of the White Slave Traffic Act (Mann Act), 18 U. S. C. 2421, and, in the third count, a conspiracy. She was found guilty on all three counts (R. 7), and sentenced generally to a term of two and one-half years in prison (R. 102–103).[1] In a *per curiam* opinion, the Court of Appeals for the Fifth Circuit affirmed the conviction (Pet. 28–29).

The evidence adduced at the trial may be summarized in pertinent part as follows:

1. Petitioner was arrested in Tallahassee, Florida, on August 3, 1955 (R. 8). After being fully advised of her constitutional rights, she gave a signed statement to two agents of the Federal Bureau of Investigation which was received in evidence upon the conclusion

[1] Petitioner's husband and co-defendant was acquitted on Counts I and II, and found guilty of conspiracy under Count III. He is not a party to the instant petition.

of the government's case (R. 75). Petitioner told the agents that she, and one Mickey Jo Pursley, lived near Birmingham, Alabama, and practiced prostitution there. Petitioner supported her husband, who was AWOL from the Navy (R. 10, 40), in this manner and by cashing war bonds (R. 9–11). On July 26, 1955, petitioner drove her husband and Pursley from Birmingham, Alabama, to Thomasville, Georgia, in a red and black Buick automobile registered in petitioner's name (R. 10–15). Petitioner and Pursley were to meet "boy friends" in Thomasville, and petitioner then intended to return her husband to the Navy in Florida (R. 10). In Thomasville, Mr. Wright registered at the Rosemary Inn, and petitioner and Pursley stayed at the Gilbert Hotel (R. 10). Petitioner practiced prostitution there, and brought her husband money at the Rosemary Inn on various occasions (R. 14–15, 33, 40).

Petitioner and Pursley went from Thomasville, Georgia, to Tallahassee, Florida, to inquire about the possibilities of prostitution (R. 13–15). After they returned to Thomasville, petitioner, her husband, Pursley, and one Linnie Kincaid, another prostitute whom they had met in Thomasville, all proceeded to Tallahassee in petitioner's car, which she drove (R. 13–16). In Tallahassee, petitioner, her husband, and Kincaid registered in one hotel room. Petitioner told a bell-hop, in the presence of her husband, that she and Kincaid were there to practice prostitution, and made arrangements with the bell-hop to get dates for them. She practiced prostitution there (R. 14–15, 51–52).

2. In addition to the testimony as to petitioner's statement, Linnie Kincaid testified that she met petitioner and Pursley in Thomasville where all three of them were practicing prostitution (R. 53–54); that she accompanied petitioner and Pursley on both trips to Tallahassee in petitioner's car which petitioner drove (R. 55–56), but that all three were operating independently and that both she and Pursley each contributed $2.00 worth of gas for the trip (R. 66–67). She went with petitioner to Tallahassee the first time because petitioner "knew about the places you could hustle and where you couldn't, and I didn't" (R. 62). Petitioner did all the talking when inquiring about prospective prostitution activity (R. 56). Kincaid testified that they made the second trip to Tallahassee to practice prostitution (R. 56–57), that petitioner's husband knew about their prostitution activities, and recorded their "dates" and receipts (R. 58): Petitioner's husband denied to the F. B. I. that he knew anything about his wife's prostitution activities (R. 41).

The manager of the Gilbert Hotel in Thomasville could not identify petitioner, but testified that he checked out a "Caroline Anthony" on August 2, 1955 (R. 71–73). Petitioner's statement to the F. B. I. related that she had registered at that hotel as "Carolyn Anthony and party" (R. 71).

The manager of the Rosemary Inn in Thomasville, where petitioner's husband stayed, identified both petitioner and her husband, who registered under his own name. Petitioner, who claimed to be Mr. Wright's sister, came to see him several times in a red

and black automobile, and left money to give to Mr. Wright (R. 31–34).

The clerk at the Cherokee Hotel in Tallahassee testified that according to his hotel records three persons checked in for a room on August 2, 1955, under the name of "C. C. Wright and Family, Birmingham, Alabama" (R. 74).

ARGUMENT

1. Petitioner avers that her conviction cannot be sustained because her extra-judicial statement to the F. B. I. was not corroborated by other independent proof of the corpus delicti (Pet. 22). On the contrary, there was ample independent evidence of all elements of the crime to meet the test laid down by this Court in *Opper* v. *United States*, 348 U. S. 84. Particularly with respect to the second count, dealing with the transportation from Thomasville to Tallahassee (a count which in itself supports the verdict),[2] the testimony of the witness Kincaid alone establishes all elements of the crime—the interstate transportation and the purpose to practice prostitution. In addition, there was the testimony of the hotel managers placing petitioner and her husband in Thomasville and then in Tallahassee (see the Statement, *supra*, pp. 4–5).

2. Petitioner contends that she could not be found guilty of violating the Mann Act because the govern-

[2] In view of the general sentence, petitioner's attack on the sufficiency of the evidence to support the conspiracy count is immaterial. The verdict is, however, amply supported by the evidence that the husband acompanied his wife on the trips made for the purpose of practicing prostitution, recorded the earnings of the girls, and lived on petitioner's earnings as a prostitute.

ment failed to prove that she benefited financially from the activities of Pursley and Kincaid (Pet. 20–21). It is however established that the Mann Act, although "primarily" aimed at the use of interstate commerce for the purposes of commercialized sex (*Mortensen* v. *United States*, 322 U. S. 369, 377), is not restricted to that end. It also covers a transportation devoid of pecuniary motive or gain. *Cleveland* v. *United States*, 329 U. S. 14, 18; *Caminetti* v. *United States*, 242 U. S. 470, 486; *Lindsey* v. *United States*, 227 F. 2d 113, 117 (C. A. 5), certiorari denied, 350 U. S. 1008.

3. Petitioner further contends that since she, Pursley, and Kincaid operated independently, and she did not induce or entice them to be transported to practice prostitution, she was not guilty of an offense under the statute (Pet. 21–22).

The Mann Act specifically includes within its intendment one who "knowingly transports in interstate * * * commerce * * * any woman or girl for the purpose of prostitution * * *". Proof of transportation for the proscribed purposes is alone sufficient to establish the offense. See *Gebardi* v. *United States*, 287 U. S. 112, 118; *Hoke* v. *United States*, 227 U. S. 308, 320; *Christian* v. *United States*, 28 F. 2d 114, 115 (C. A. 8).

While the indictment also included an allegation based on the portion of the statute proscribing, in the disjunctive, the transportation of a woman with intent to *induce* her to become a prostitute, the judge properly charged the jury that transportation for any one of the proscribed purposes would support the conviction (R. 88). See *Mellor* v. *United States*, 160 F. 2d 757,

760–762 (C. A. 8), certiorari denied, 331 U. S. 848, and cases cited therein.

The fact that petitioner may have also intended to return her husband to the Navy in Florida (R. 10) is not persuasive. The immoral purpose need not be the sole purpose of the transportation. It will suffice if one of the efficient and compelling reasons in the accused's mind was such illicit conduct. *O'Neal* v. *United States,* 240 F. 2d 700, 703 (C. A. 10); *Masse* v. *United States,* 210 F. 2d 418, 421 (C. A. 5), certiorari denied, 347 U. S. 962; *Dunn* v. *United States,* 190 F. 2d 496, 497 (C. A. 10).

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for a writ of certiorari should be denied.

J. LEE RANKIN,
Solicitor General.
WARREN OLNEY III,
Assistant Attorney General.
BEATRICE ROSENBERG,
ALBERT M. CHRISTOPHER,
Attorneys.

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